

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO.: 3:16-cv-32-FDW-DSC

KENNETH W. FOGLE,)
)
PLAINTIFF,)
)
VS.)
)
NANCY A. BERRYHILL¹,)
ACTING COMMISSIONER)
OF SOCIAL SECURITY,)
)
DEFENDANT.)

ORDER

THIS MATTER IS BEFORE THE COURT on the Plaintiff's "Consent Motion for Fees Pursuant to the Equal Access to Justice Act 28 U.S.C. § 2412(d)(1)(A)" (document #24) filed on March 15, 2017. Having reviewed the Motion, supporting materials, memorandum in support, and the case file the Court determines that Plaintiff should be awarded an attorney's fee under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d), in the amount of \$5,913.34.

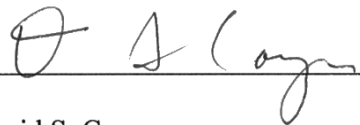
IT IS ORDERED that the Plaintiff's Motion for Fees Under the Equal Access to Justice Act 28 U.S.C. § 2412(d)(1)(A) is **GRANTED** to the extent that the Court will award attorney's fees in the amount of \$5,913.34, and that pursuant to Comm'r of Soc. Sec. v. Ratliff, 560 U.S. 586, 130 S. Ct. 2521 (2010), the fee award will first be subject to offset of any debt Plaintiff may owe to the United States. The Commissioner will determine whether Plaintiff owes a debt to the United States. If so, that debt will be satisfied first, and if any funds remain, they will be made payable to Plaintiff and mailed to Plaintiff's counsel. If the United States Department of the Treasury

¹ Nancy A. Berryhill is now the Acting Commissioner of Social Security. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Nancy A. Berryhill is substituted for Carolyn W. Colvin as the Defendant herein. No further action is necessary pursuant to Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

reports to the Commissioner that the Plaintiff does not owe a federal debt, the Government will exercise its discretion and honor an assignment of EAJA fees, and pay those fees directly to Plaintiff's counsel. No additional petition pursuant to 28 U.S.C. § 2412(d) shall be filed.

SO ORDERED.

Signed: March 16, 2017



David S. Cayer
United States Magistrate Judge

